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REMARKS

In the Final Office Action mailed on June 15, 2005 the Examiner rejected claims

37-40 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,202,088 to

Corrigan et al.; rejected claims 1-2, 7-13, 16-24, 26 and 27 under 35 U.S.C. 103(a) as

being unpatentable over U.S. Patent No. 5,574,495 to Caporizzo in view of Corrigan;

rejected claims 4, 5 and 14 under 35 U.S.C. 103(a) as being unpatentable over Caporizzo

and Corrigan in view of U.S. Patent No. 6,463,588 to Jenkins et al. and U.S. Patent No.

6,425,132 to Chappell; rejected claims 6 and 15 under 35 U.S.C. 103(a) as being

unpatentable over Caporizzo and Corrigan in view of U.S. Patent No. 5,563,833 to

Cheng; rejected claims 25, 28-30 and 34-36 under 35 U.S.C. 103(a) as being

unpatentable over Caporizzo and Corrigan in view of an article by Henderson; rejected

claims 31 and 32 under 35 U.S.C. 103(a) as being unpatentable over Caporizzo, Corrigan

and Henderson in view of Jenkins and Chappell; rejected claim 33 under 35 U.S.C.

103(a) as being unpatentable over Caporizzo, Corrigan and Henderson in view of Cheng;

rejected claim 41 under 35 U.S.C. 103(a) as being unpatentable over Corrigan in view of

Caporizzo; and rejected claims 42 and 43 under 35 U.S.C. 103(a) as being unpatentable

over Corrigan.

Applicant has amended claims 1, 4, 8, 10, 11, 14, 17, 19, 20, 23, 25, 27, 28, 31

and 35 and cancelled claims 2, 6-7, 12, 15-16, 21, 26, 29, 34 and 38-40. No new matter

has been added.

Applicant has amended independent claims 1, 11, 20 and 28 to include the request

for registration message being transmitted without a request message being sent first from

the system controller. This feature was previously presented in now cancelled claims 7,

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16 and 34. In previously rejecting claims 7, 16 and 34, the Examiner relied upon col. 5, lines 4-11 from Caporizzo as teaching this feature. However, the passage cited by the Examiner relates to a process for accumulating bit error data and is not related to a process for registering set-top terminals with the system controller. Thus, the only data Caporizzo can transmit from the settop terminal to the headend is bit error rate data and not a registration request message.

Corrigan does not make up for this deficiency in Caporizzo. While Corrigan does describe a process for initializing a subscriber unit in col. 7, lines 5-16, this process is initiated by the control unit. In contrast, the processes, and corresponding apparatus, presently claimed are initiated by the set-top terminal and not the system controller.

Finally, there is no motivation to combine the systems and methods of Caporizzo and Corrigan. As noted earlier, Caporizzo addresses bit error rate data. Corrigan describes an initialization process for a subscriber unit. These patents are addressing different problems and would not be combinable by one or ordinary skill in the art.

In rejecting claims 10 and 19, the Examiner asserts that the telephone network alluded to in Caporizzo is an upstream plant and cites to column 5, lines 43-48. Applicant respectfully disagrees. What column 5, lines 43-48 describe is a system through which a settop terminal may circumvent the cable network by using the PSTN to transmit the bit error rate data to the headend. A cable upstream plant is not the same thing as a part of the PSTN.

Similarly, with respect to claim 41, Corrigan is directed to initializing a subscriber unit over the cable network. There is simply no motivation in Corrigan to use the PSTN in the process of initializing the subscriber unit.

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In rejecting claim 25, the Examiner asserts that it would have been obvious to modify the teachings of Caporizzo to include purchasing the set-top terminal at a retail outlet. Applicant respectfully disagrees. As pointed out earlier, Caporizzo is focused on collecting bit error rate data. These errors can come from a plurality of sources as outlined by Caporizzo in column 3, lines 13-32. How the settop terminal got into the network (i.e., via a purchase from a retail outlet) is immaterial as to how the terminal is performing so as to reduce bit error rates.

In rejecting claims 42 and 43, the Examiner relies on Official Notice. Applicant respectfully requests the Examiner provide a reference teaching those features.

Finally, with respect to claim 37, Applicant has amended claim 37 to include transmitting a registration request message in response to a command being input to the set-top terminal by a user. Corrigan begins its initializing of a subscriber unit by having the control unit transmit operational parameters on the system broadcast channel. This is simply different than beginning a process in response to a user inputting a command to the set-top terminal.

Any claims not specifically mentioned above are allowable due to their dependency on allowable base claim.

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CONCLUSION

No fees are believed due for this response. However, the Office is authorized to charge any additional fees or underpayments of fees (including fees for petitions for extensions of time) under 37 C.F.R. 1.16 and 1.17 to account number 502117. Any overpayments should be credited to the same account.

Applicant respectfully requests reconsideration of the present application, withdrawal of the rejections made in the last Office Action and the issuance of a Notice of Allowance. The Applicant's representative can be reached at the below telephone number if the Examiner has any questions.

Respectfully submitted,

Arthur Jost et al.

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